

UNITED STATES DISTRICT COURT  
DISTRICT OF NEW JERSEY  
CAMDEN VICINAGE

IN RE: BENICAR (OLMESARTAN)	:	CIVIL NO. 15-2606 (RBK)(JS)
PRODUCTS LIABILITY LITIGATION	:	
	:	HON. ROBERT B. KUGLER
	:	
THIS DOCUMENT RELATES TO	:	HON. JOEL SCHNEIDER
ALL ACTIONS	:	

**[PROPOSED] CASE MANAGEMENT ORDER NO. \_\_\_\_**  
**BELLWETHER SELECTION PROTOCOL**

**THIS MATTER**, having come before the Court for consideration of the Parties' proposed bellwether selection protocol; and the Court having considered the Parties' submissions, and having heard the arguments of counsel;

**IT IS HEREBY ORDERED** that the Parties shall proceed as set forth below in selecting cases consolidated within MDL No. 2606 for inclusion in the Bellwether Discovery Pool and Bellwether Trial Pool.

1. The Initial Bellwether Discovery Pool shall consist of eighteen (18) cases. Those eighteen (18) cases shall be selected as follows:

- (a) Plaintiffs' Counsel and Defense counsel shall each identify nine (9) cases for inclusion in the Initial Bellwether Discovery Pool. A case is eligible for inclusion in the Initial Bellwether Discovery Pool if Plaintiff's counsel has served the Plaintiff's Fact Sheet in the case on the Defendant by December 1, 2015, and the case is representative of those cases in the MDL litigation.

shall be designed to, among other things, provide the parties with information to assist them in assessing each case in the pool of cases and, consistent with paragraph four (4) below, to provide the Court with information to enable it to select which cases are representative cases that shall continue on to the next phase of bellwether discovery.

3. On July 1, 2016, the parties shall simultaneously file their proposed lists of six (6) cases each from the Initial Bellwether Discovery Pool to proceed to the Bellwether Trial Pool. Along with the lists, the parties shall provide, by letter brief, a description of each case, including the facts which establish that the case is representative of those cases eligible to be selected for inclusion as a Trial Pool case. These letter briefs shall not exceed two (2) pages per case. On August 1, 2016, the parties shall simultaneously file their letter briefs in response to the other side's proposed Bellwether Trial Pool selections. These reply letter briefs shall not exceed two (2) pages per case.

4. The Court will then select six (6) cases, three (3) from the Plaintiffs' proposed Bellwether Trial Pool selections and three (3) from the Defendants' proposed Bellwether Trial Pool selections, to proceed to the Final Bellwether Trial Pool. The Court will also determine the order in which the cases are to be tried, with a Plaintiffs' selection to be tried first.

5. Upon selection of the six (6) Final Bellwether Trial Pool cases, the Court shall enter a detailed pretrial schedule to govern discovery in the remaining trial cases (expert reports and depositions, *Daubert* briefing and oral arguments, summary judgment briefing and oral arguments, etc.).

6. In the event Plaintiffs voluntarily dismiss a case within the Final Bellwether Trial Pool, Plaintiffs shall inform the Court of such dismissal, in writing, no later than three (3) days following the date the notice of dismissal is filed. Upon learning of the dismissal, the Court shall select a replacement case from the six (6) cases that remained in the Bellwether Trial Pool at the time the Court selected the Final Bellwether Trial Pool cases.

SO ORDERED this \_\_\_\_ day of \_\_\_\_\_, 2015.

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**HONORABLE ROBERT B. KUGLER**  
**UNITED STATES DISTRICT JUDGE**